

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

IN RE:
KRISTY C BUTLER

CASE NO: 18-60077 - RBK

Debtor

CHAPTER 13

**TRUSTEE'S OBJECTION TO CONFIRMATION OF DEBTOR'S
PROPOSED CHAPTER 13 PLAN WITH PREJUDICE**

COMES NOW RAY HENDREN, the Chapter 13 Trustee in the above captioned case, and moves this Honorable Court to deny confirmation of Debtor's proposed Chapter 13 plan with prejudice. In support, the Trustee would represent to the Court the following:

1. Debtor(s) filed a voluntary petition on February 5, 2018. The meeting of creditors pursuant to Bankruptcy Code section 341 was scheduled for March 5, 2018 and reset to April 4, 2018 and concluded. The Confirmation hearing was set for March 28, 2018 and was reset to April 25, 2018 and the Plan was denied. Debtor filed an amended Chapter 13 Plan on May 9, 2018 and the Confirmation hearing was reset to June 20, 2018 and continued to July 25, 2018. The plan proposes to pay all allowed priority claims in full, all secured claims to the extent of the value of the collateral, and approximately 100% of each unsecured allowed claim.
2. The Trustee is unable to determine feasibility of the Chapter 13 Plan pending resolution of the debtor's Objection to Claim #2 of Ditech Financial LLC. Ditech Financial LLC (hereinafter Ditech) filed their Proof of Claim on March 23, 2018 and included arrears in the amount of \$56,283.40. Debtor has scheduled arrears in the amount of \$35,000.00. Debtor asserts Ditech's claim is overstated by \$17,265.05. The Trustee is unable to recommend the payments necessary to fulfil the liquidation test requirement of §1325(a)(4) until resolution of the Objection.
3. Upon information and belief, the debtor has received the 2017 tax refund in the amount of \$8,833.00. Pursuant to section 4.1 of the Chapter 13 Plan Form, Western District of Texas (effective for cases filed on or after November 1, 2017) states that the debtors will contribute any amount of their tax refund that exceeds \$2,000.00 and such amount shall increase the base accordingly. The Trustee asserts debtor's base amount should be increased by \$6,833.00 after a feasible Plan has been confirmed.
4. The debtor may not be contributing all disposable income to the plan pursuant to §1325(b) (2). Upon information and belief, the debtor's non-filing spouse is now employed and household income is now higher than scheduled. The Trustee requests the debtor provide

pay stubs for the non-filing spouse and the most recent pay stubs for debtor's employment. The Trustee asserts the debtor is required to contribute all disposable income to the Plan and that plan payments be raised to increase the dividend paid to unsecured creditors.

WHEREFORE, PREMISES CONSIDERED, the Chapter 13 Trustee Ray Hendren prays that, absent Debtor obtaining plan confirmation, the Court enter an Order Denying Confirmation of the proposed Chapter 13 Plan which requires Debtor to dismiss or convert the case within 7 days of the date of the hearing or face dismissal of the case without the need for a further hearing upon the Trustee's submission of an Order Summarily Dismissing Case. The Trustee further prays for such other and further relief as appropriate.

Dated: June 26, 2018

Respectfully Submitted

/s/Ray Hendren

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Waco**

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CERTIFICATE OF SERVICE

I, Ray Hendren, hereby certify that a true and correct copy of the attached document was served upon the following parties via electronic means as listed on the Court's ECF noticing system or by regular mail on **June 26, 2018**.

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/s/ Ray Hendren

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